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ATTORNEY DOCKET NUMBER: 2003320-0036 (Alien Sequences US Nat'l)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Smith, Temple *et al.*  
Serial No.: 10/763,039  
Filing Date: January 22, 2004  
Title: ALIEN SEQUENCES

Examiner: Not yet assigned  
Art Unit: 1645

Mail Stop: Amendments  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**TRANSMITTAL LETTER**

Enclosed are the following documents:

1. Form PTO-1449 ( 2 pages);
2. Information Disclosure Statement (5 pages);
3. Transmittal Letter (1 page)
4. Cited Art (20); and
5. Return Postcard.

If any additional fees are required to be paid or if any overpayment has been made, please charge same to Deposit Account No. 03-1721.

Respectfully submitted,

Andrea L.C. Robidoux  
Reg. No. 47,902

CHOATE, HALL & STEWART, LLP  
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Dated: November 4, 2005  
3996740v1

**Certificate of Mailing**

I certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Mail Stop: Amendments, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date

11/4/05

Signature

Justin Blanch

Typed or Printed Name of person signing certificate



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**INFORMATION DISCLOSURE STATEMENT**

Pursuant to the duty of disclosure under 37 CFR §§ 1.56, 1.97 and 1.98, Applicant requests consideration of this Information Disclosure Statement.

**Type of Statement**

The present Information Disclosure Statement is:

- ☒ An *original* Information Disclosure Statement; or  
☐ A *supplemental* Information Disclosure Statement.

<b>Certificate of Mailing</b>	
I certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Mail Stop: Amendments, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.	
Date <u>11/4/05</u>	Signature <u>Justin Blanch</u>
Justin Blanch Name of Person Signing	

Compliance with 37 CFR § 1.97

The present Information Disclosure Statement is being filed:

- ☒ Pursuant to 37 CFR § 1.97(b); no fee or certification is required:
- ☐ Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);
  - ☐ Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;
  - ☒ Before the mailing of a first Office action on the merits; or
  - ☐ Before the mailing of a first Office action after the filing of a request for continued examination under § 1.114.
- ☐ Pursuant to 37 CFR § 1.97(c) after the dates listed above but before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application; Applicant hereby *either*:
- ☐ Certifies that *either*:
    - ☐ each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or
    - ☐ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the

information disclosure statement was known to any individual  
designated in § 1.56(c) more than three months prior to the filing  
of  
the information disclosure statement; or

☐ Includes herewith the fee set forth in § 1.17(p),

☐ Pursuant to 37 CFR § 1.97(d), after the mailing date of any final action under  
§ 1.113, a notice of allowance under § 1.311, or an action that otherwise closes  
prosecution in the application; Applicant hereby *both*:

☐ Certifies that *either*:

☐ each item of information contained in the information disclosure  
statement was first cited in any communication from a foreign  
patent office in a counterpart foreign application not more than  
three months prior to the filing of the information disclosure  
statement; or

☐ That no item of information contained in the information  
disclosure statement was cited in a communication from a foreign  
patent office in a counterpart foreign application, and, to the  
knowledge of the person signing the certification after making  
reasonable inquiry, no item of information contained in the  
information disclosure statement was known to any individual  
designated in § 1.56(c) more than three months prior to the filing  
of  
the information disclosure statement; and

☐ Includes herewith the fee set forth in § 1.17(p).

## Content of the Information Disclosure Statement

Applicant hereby makes of record in the above-identified application the reference(s) listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

Applicant includes copies of references as indicated below:

- ☒ A copy of each cited reference not indicated with an asterisk is included;
- ☐ Copies of references indicated with an asterisk on the attached form PTO-1449 are not included pursuant to 37 CFR § 1.98(d) because they were previously provided to the United States Patent Office in an Information Disclosure Statement that complies with 37 CFR § 1.98(a)-(c) and was submitted in the following patent application that is relied upon in the present case for an earlier effective filing date under 35 USC § 120:

Serial Number	Filing Date	Status

- ☐ Copies of English translations of one or more non-English references are included.

Applicant hereby makes the following additional information of record in the above-identified application:

Applicant certifies that the Information Disclosure Statement *either*:

- ☒ Does not contain non-English language citations;
- ☐ Includes one or more translations of a non-English citation; or
- ☐ Does contain non-English language citations, of which the following is a concise explanation:

## Remarks

The submission of this Information Disclosure Statement should not be construed as a representation that a search has been made.

The submission of this Information Disclosure Statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in § 1.56(b) .

The submission of this Information Disclosure Statement shall not be construed as a representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 USC §102.

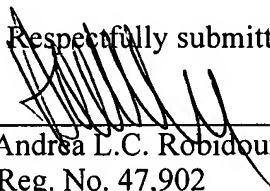
It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited patent(s) and publication(s) has (have) been fully considered by the Patent and Trademark Office during the examination of this application; and
3. The citations for the patent(s) and publication(s) be printed on any patent which issues from this application.

Notwithstanding any statements by Applicants, the Examiner is urged to form his or her own conclusions regarding the relevance of the cited reference(s).

Dated: November 4, 2005

Respectfully submitted,

  
\_\_\_\_\_  
Andrea L.C. Robidoux  
Reg. No. 47,902

CHOATE, HALL & STEWART, LLP  
2 International Place  
Boston, Massachusetts 02110  
(617) 248-5000  
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<b>Form PTO-1449</b> (REV. 8-83) <b>INFORMATION DISCLOSURE STATEMENT</b> (Use several sheets if necessary)	U.S. Department of Commerce Patent and Trademark Office		Atty. Docket: 2003320-0036	In re Application No. 10/763,039
	Applicant: Smith, Temple, et al.			
	Filing Date: January 22, 2004		Group: 1645	

### U.S. PATENT DOCUMENTS

Examiner's Initials	U.S. Patent No.	Applicant	Issue Date	Class	Subclass

### U.S. PATENT APPLICATIONS

Examiner's Initials:	Serial Number:	Applicant:	Filing Date:	Group:	Art Unit:

### FOREIGN PATENT DOCUMENTS

Examiner's Initials	Document No.	Country	Date	Translation	
				Yes	No

### OTHER DOCUMENTS

Examiner's Initials	Citation (Including Author, Title, Date, Pertinent Pages, Etc.)
	Azuaje, F., "Clustering-Based Approaches To Discovering And Visualising Microarray Data Patterns." <i>Brief Bioinform</i> 4(1): p. 31-42, 2003.
	Badiee, A., et al., "Evaluation Of Five Different cDNA Labeling Methods For Microarrays Using Spike Controls." <i>BMC Biotechnol</i> , 3: p. 23, 2003.
	Ball, C., et al., "An Open Letter On Microarray Data" <i>MGED Society. Microbiology</i> 150(Pt 11): p. 3522-4, 2004.
	Brazma, A., et al., "Minimum Information About A Microarray Experiment (MIAME)-Toward Standards For Microarray Data" <i>Nat Genet</i> , 29(4): p. 365-71, 2001.
	Causton, H.C. and L. Game, "MGED Comes Of Age". <i>Genome Biol</i> , 4(12): p. 351, 2003.
	Churchill, G.A., "Fundamentals Of Experimental Design For cDNA Microarrays" <i>Nat Genet</i> . p. 490-5, 2002.
	Cronin, M., et al., "Universal RNA Reference Materials For Gene Expression." <i>Clin Chem</i> , 50(8): p. 1464-71, 2004.
	Dudley, A.M., et al., "Measuring Absolute Expression With Microarrays With A Calibrated Reference Sample And An Extended Signal Intensity Range." <i>Proc Natl Acad Sci U S A</i> , 99(11): p. 7554-9, 2002.
	Eickhoff, B., et al., "Normalization Of Array Hybridization Experiments In Differential Gene Expression Analysis." <i>Nucleic Acids Res</i> , 27(22): p. e33, 1999.
	Kane, M.D., et al., "Assessment Of The Sensitivity And Specificity Of Oligonucleotide (50mer) Microarrays". <i>Nucleic Acids Res</i> , 28(22): p. 4552-7, 2000.

<b>Form PTO-1449</b> <b>(REV. 8-83)</b>		U.S. Department of Commerce Patent and Trademark Office		Atty. Docket: 2003320-0036	In re Application No. 10/763,039
<b>INFORMATION DISCLOSURE STATEMENT</b> (Use several sheets if necessary)				Applicant: Smith, Temple, et al.	
				Filing Date: January 22, 2004	Group: 1645
	Lee, P.D., et al., "Control Genes And Variability: Absence Of Ubiquitous Reference Transcripts In Diverse Mammalian Expression Studies." <i>Genome Res</i> , <b>12(2)</b> : p. 292-7, 2002.				
	Lockhart, D.J., et al., "Expression Monitoring By Hybridization To High-Density Oligonucleotide Arrays." <i>Nat Biotechnol</i> <b>14(13)</b> : p. 1675-80, 1996.				
	Ross, D.T., et al., "Systematic Variation In Gene Expression Patterns In Human Cancer Cell Lines." <i>Nat Genet</i> , <b>24(3)</b> : p. 227-35, 2000.				
	Schena, M., et al., "Quantitative Monitoring Of Gene Expression Patterns With A Complementary DNA Microarray." <i>Science</i> <b>270(5235)</b> : p. 467-70, 1995.				
	Sterrenburg, E., et al., "A Common Reference For cDNA Microarray Hybridizations." <i>Nucleic Acids Res</i> , <b>30(21)</b> : p. e116, 2002.				
	Tsai, M.H., et al., "Evaluation Of Hybridization Conditions For Spotted Oligonucleotide-Based DNA Microarrays." <i>Mol Biotechnol</i> , <b>29(3)</b> : p. 221-4, 2005.				
	van de Peppel, J., et al., "Monitoring Global Messenger RNA Changes In Externally Controlled Microarray Experiments." <i>EMBO Rep</i> , <b>4(4)</b> : p. 387-93, 2003.				
	van Hal, N.L., et al., The Application Of DNA Microarrays In Gene Expression Analysis" <i>J Biotechnol</i> . p. 271-80, 2000.				
	Woo, Y., et al., "A Comparison Of cDNA, Oligonucleotide, And Affymetrix GeneChip Gene Expression Microarray Platforms" <i>J Biomol Tech</i> . p. 276-84, 2004.				
	Yang, Y.H. and T. Speed, "Design Issues For cDNA Microarray Experiments." <i>Nat Rev Genet</i> , <b>3(8)</b> : p. 579-88, 2002.				
<b>EXAMINER</b>		<b>DATE CONSIDERED</b>			
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.					

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